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TO RUCPDO/DEPT OF COMMERCE WASHDC  
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INFO RUEHEE/ARAB LEAGUE COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 003826

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E.O. 12958: DECL: 11/23/2015  
TAGS: [KBCT](#) [ETRD](#) [PREL](#) [EFIN](#) [ECON](#) [EINV](#) [IZ](#)  
SUBJECT: ARAB LEAGUE BOYCOTT: MAINTAINING IRAQ'S "UNDER  
REVIEW" STATUS

REF: A. BAGHDAD 2467  
[1](#)B. BAGHDAD 764  
[1](#)C. BAGHDAD 42  
[1](#)D. THOME-VINOGRAD-PHILLIPS E-MAILS NOVEMBER 2008

Classified By: Ambassador Ryan C. Crocker for Reasons 1.4 (b,d).

[1](#)1. (C) SUMMARY: The Embassy continues to make progress on its action plan concerning the Arab League Boycott (ALB) of Israel. To date in 2008, U.S. firms have reported five requests from Government of Iraq (GOI) entities to comply with this foreign boycott, down significantly from previous years. Long isolated from trade with the U.S., ministerial officials are typically ignorant of ALB provisions' negative impact on U.S. firms; this makes raising their awareness our biggest challenge. Once they learn about the issue and understand that our intentions are apolitical, GOI officials typically agree to replace ALB provisions with contractual language that is acceptable under U.S. law. Post recommends maintaining Iraq's "Under Review" status until June 30, 2009, so that we may continue to implement our action plan in an atmosphere of good faith and move toward our wider goal of encouraging U.S.-Iraqi business as a means of expanding Iraq's economic development. END SUMMARY.

#### Action Plan Progress Report

[1](#)2. (SBU) In 2006, U.S. companies, individuals and other entities ("U.S. persons") reported (in accordance with regulations under 15 C.F.R. Parts 730-774 of 2003) to the U.S. Department of Commerce (USDOC) 35 cases in which Iraqi government entities had requested them to include Arab League Boycott of Israel language in contracts, business registration requests, and/or patent or trademark applications. In 2007, U.S. persons reported 23 such boycott requests to USDOC. Nearly all of these cases originated with three GOI entities: the Patent and Trademark Office (PTO), the Ministry of Health (MOH), and the South Oil Company (SOC). In response, Post began engagement with the GOI and devised an action plan aimed at

(1) finding a way, over the near term, to permit U.S. firms to do business legally in Iraq, thereby contributing to the country's reconstruction and economic development; and (2) over the longer term, moving the GOI toward ALB non-implementation (Reftel B).

¶3. (SBU) We have had success -- albeit to different degrees -- in implementing our action plan. In February and March, we succeeded in convincing the Trademark Office to cease requesting ALB certifications from U.S. persons as part of trademark applications (Refs B, C) -- a step we consider to be an actual move in the direction of de facto ALB non-implementation. In August, MOH officials agreed to remove ALB language from standard procurement contracts with U.S. persons and replace it with alternate contracting language that is acceptable under U.S. law (Ref A). While this is not actual ALB non-implementation, it is a step that will permit U.S. firms to supply badly needed quality medication and technology to the Iraqi health sector.

¶4. (C) Thus far, we have had less success with Basrah-based SOC, mainly because the company had refused to engage with us. However,

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Economic Minister Counselor (EMIN) and EconCouns visited South Oil on November 12 -- the first U.S. officials to do so in decades. EMIN followed up with a letter to SOC officials detailing our concerns (Ref D). We have explained the problem to Ministry of Oil (MOO) officials in the capital and have briefed our Basrah Regional Embassy Office (REO). SOC will be a difficult entity with which to negotiate; nevertheless, we are confident that with time we will ultimately be able to convince officials there to follow the lead of their counterparts at the MOH and the Trademark Office. Thanks to our efforts, in part, USDOC has only received five reports of prohibited ALB request reports through the first three quarters of CY 2008.

#### Identifying the Problems and Raising Awareness

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¶4. (SBU) Aside from SOC, our major challenge at this stage is to discover which GOI entities enforce ALB provisions and which do not. Some ministries have upgraded or redrafted their standard operating procedures since 2003, but many still operate under regulations or use standard contracting language from the Saddam era, which typically include ALB provisions. Many officials are completely unfamiliar with the ALB -- or at least with the impact it has under U.S. law for U.S. businesses. This makes discovering which entities use ALB provisions "step one," and then directly negotiating with ministerial officials, contracting officers, lawyers and

often even  
the minister to raise their awareness "step two."

15. (SBU) The process is painstaking, but it has yielded results in addition to those noted above. For example, in studying the Ministry of Trade's (MOT) procedures for registering foreign firms, we discovered requirements that companies submit paperwork declaring that they honor the ALB. We raised the problem with the Minister and with the appropriate Director General, asking that the requirement be removed and explaining the negative impact it had on U.S.-Iraqi trade. They could not immediately agree to our request (doing so requires promulgation of new regulations -- a painfully slow process in Iraq), but they did reassure us that the requirement will not, in practice, be applied to U.S. persons. In another case, a U.S. supplier to the Ministry of Agriculture discovered ALB language in a procurement contract. The U.S. firm devised its own expedient solution by having a European subsidiary sign the contract, but the case served to make the problem known to us, so that we could begin to engage. Both these cases demonstrate the long road we must travel to achieve our ultimate goal of complete ALB non-implementation. However, both also show the willingness of Iraqi officials to make accommodations that contribute to our wider goal of encouraging U.S.-Iraqi business.

#### Maintaining an Atmosphere of Good Faith

16. (C) Indeed, GOI officials have impressed us with how willing they are -- once aware of the problem -- to replace ALB provisions with alternate language that does not violate U.S. law. However, this requires establishing an atmosphere of good will. We are

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quick to point out that, in this context, the USG regards the ALB as principally a trade issue, rather than as a political issue. Politically, the USG fully supports the GOI's rapprochement with its Arab League partners and we do not want the ALB issue to get in the middle of that process. And while our ultimate goal is full Iraqi non-implementation of the ALB, our main focus is not to use this issue to influence Iraq's foreign policy toward Israel. We are mainly focused on increasing U.S.-Iraqi trade, on giving Iraqi ministries access to high quality competitive U.S. goods and services; and on improving Iraq's overall business climate -- all goals our interlocutors typically share. Once this measure of good faith is established, we find we can move forward.

#### Recommendations

17. (SBU) Maintaining good faith will be the key to continued implementation of our ALB action plan and to moving GOI

officials  
beyond a spirit of willingness to resolve ALB cases on a  
case-by-  
case basis in order to promote Iraqi development through  
trade, and  
toward an eventual policy of non-ALB implementation. Based  
on this  
and on our success thus far, Post recommends maintaining  
Iraq's  
"Under Review" status until June 30, 2009, at which time we  
will  
again reevaluate our progress and the road ahead.  
CROCKER